

1 UNITED STATES DISTRICT COURT
 2 NORTHERN DISTRICT OF CALIFORNIA

3 ANITA HUNTER, <i>et al.</i> ,	:	X
	:	
4 Plaintiffs,	:	
	:	
5 v.	:	
	:	
6 CITIBANK, N.A., <i>et al.</i> ,	:	Case No. 09-CV-02079-JW
	:	(Related to Case No. 07-CV-2795-JW)
7 Defendants.	:	
		X Assigned to: Honorable James Ware



9 **FINAL JUDGMENT WITH RESPECT TO WAVE III SETTLING DEFENDANT**

10 **CITIBANK, N.A.**

11 Pursuant to the Order Approving the Wave III Class Settlement with Citibank, N.A, a
 12 Final Judgment is hereby entered with respect to Citibank, N.A. ("Citibank").

13 IT IS HEREBY ORDERED ADJUDGED AND DECREED that the above-entitled
 14 action is hereby dismissed on the merits and with prejudice as against Citibank. Each party shall
 15 bear its own fees and costs.

16 IT IS HEREBY ORDERED ADJUDGED AND DECREED that, to the fullest extent
 17 permitted by law, the Class Representatives and all members of the Settlement Class¹ for purposes
 18 of this Settlement only, defined as:

19 All Persons² who were customers of 1031 Advance 132 LLC, 1031 Advance, Inc.,
 20 1031 TG Oak Harbor, LLC, AEC Exchange Company, LLC, Atlantic Exchange
 21 Company, Inc., Atlantic Exchange Company, LLC, Investment Exchange Group,
 22 LLC, National Exchange Accommodators LLC, National Exchange Services QI,
 23 Ltd., NRC 1031 LLC, Real Estate Exchange Services, Inc., Rutherford Investment,
 24 LLC, Security 1031 Services, LLC, Shamrock Holdings Group, LLC, and/or The
 25 1031 Tax Group, LLC, including any subsidiaries or affiliates of any of those
 26 entities engaged in business as Qualified Intermediaries pursuant to 26 U.S.C. §

27 ¹ All capitalized terms shall have the meanings attributed in the Settlement Agreement.
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² "Person" means an individual, a corporation, a partnership, a joint venture, an association, a joint stock company, a limited liability company, a limited liability partnership, an estate, an unincorporated organization, a trust, a class or group of individuals, or any other entity or organization, including any federal, state, or local governmental or quasi-governmental body or political subdivision, department, agency, instrumentality thereof or any other legal entity that could sue or be sued.

1 1031, as well as such Persons' assignees, and who suffered loss or damages or
 2 allegedly suffered loss or damages in any way, directly or indirectly, related to or
 3 arising out of (a) the failure of any of the entities listed above, including their
 4 subsidiaries or affiliates, (b) any of the events, acts or conduct alleged in the First
 5 Amended Complaint in the Action entitled '*Anita Hunter, et al. v. Edward Okun, et*
al.', United States District Court for the Northern District of California, Case No. C
 6 07-02795 JW, (c) any of the events, acts or conduct alleged in the Complaint in the
 7 Action entitled '*Quirk Infiniti, Inc. v. Wachovia Bank, N.A.*', United States District
 8 Court for the District of Massachusetts, Case No. 1:08-12060, (d) any of the
 9 events, acts or conduct alleged in the Second Amended Complaint in the Action
 10 entitled '*Anita Hunter, et al. v. Citibank, N.A.*', et al, United States District Court
 11 for the Northern District of California, Case No. C 09-02079 JW, or (e) any of the
 12 events, acts or conduct alleged in the Amended Complaint in the Action entitled
 13 '*McHale v. Citibank, N.A.*', United States Bankruptcy Court for the Southern
 14 District of New York, Adv. Pro. No. 09-01218. Excluded from the Settlement
 15 Class is Citibank and any person, firm, trust, corporation, officer, director or other
 16 individual or entity in which Citibank has a controlling interest or which is related
 17 to or affiliated with any of them, and the legal representatives, heirs,
 18 administrators, successors in interest or assigns of any such excluded party.

19 are hereby permanently barred and enjoined from instituting, commencing, pursuing,
 20 asserting, or prosecuting any and all Released Claims, or interests of any kind, as set forth in the
 21 Settlement, against Citibank or the Released Parties, and the Released Claims hereby are
 22 irrevocably compromised, settled, released, discharged and dismissed on the merits and with
 23 prejudice by virtue of the proceedings herein.

24 IT IS HEREBY ORDERED ADJUDGED AND DECREED that, to the fullest extent
 25 permitted by law, the Class Representatives and all members of the Settlement Class, on behalf of
 26 themselves and each of their past or present officers, directors, employees, agents, representatives,
 27 general or limited partners, managers, members, affiliates, parents, subsidiaries, heirs, executors,
 28 administrators, successors, and assigns, hereby fully, finally, and completely release, forever
 29 discharge and waive, against Citibank or the Released Parties (Citigroup Inc. and each of its past
 30 or present subsidiaries, parents, affiliates, successors, and predecessors and each of the foregoing's
 31 officers, directors, shareholders, general or limited partners, representatives, members, managers,
 32 agents, employees, attorneys, successors, and assigns (solely in their capacities as such), including
 33 but not limited to Citibank, Smith Barney, and any other entity affiliated with Citigroup Inc. in any
 34 way that had any contact of any sort with the 1031 Debtors or any of their exchange customers),

1 any past, present or future claim, demand, action, cause of actions, suit, or liability of any kind or
 2 nature whatsoever, whether at law or in equity, known or unknown and specifically including
 3 Unknown Claims (as defined in the Settlement), asserted or unasserted, anticipated or
 4 unanticipated, accrued or unaccrued, fixed or contingent, held at any point from the beginning of
 5 time to the date of the Settlement belonging to the Settlement Class or the Class Representatives
 6 arising out of, connected with, or in any way related, directly or indirectly, to the subject matters
 7 of the Litigation Claims, including without limitation any claims that have been or could have
 8 been asserted in the 2009 Class Litigation or in the Citibank Adversary against Citibank or the
 9 Released Parties.

10 IT IS HEREBY ORDERED ADJUDGED AND DECREED THAT, to the fullest extent
 11 permitted by law, each of the Non-Settling Defendants in the Class Action³ shall be permanently
 12 barred, enjoined, and restrained from commencing, prosecuting, or asserting any claim for
 13 indemnity or contribution against Citibank or the Released Parties (or any other claim against
 14 Citibank or the Released Parties where the injury to the Non-Settling Defendant is the Non-
 15 Settling Defendant's liability to the Class Action Plaintiffs) arising out of the claims or
 16 allegations asserted by the Class Action Plaintiffs, whether arising under state, federal or foreign
 17 law as claims, cross-claims, counterclaims, or third-party claims, whether in the Class Action,⁴ in
 18 this Court, in the Bankruptcy Court,⁴ in any federal or state court, or in any other court,
 19 arbitration proceeding, administrative agency, or other forum in the United States, Canada, or
 20 elsewhere to the extent the Court has power or authority.

21 IT IS HEREBY ORDERED ADJUDGED AND DECREED that, to the fullest extent
 22 permitted by law, Citibank shall be permanently barred, enjoined, and restrained from
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24 ³ "Class Action" means *Hunter, et al. v. Citibank, NA., et al.*, Case No. 09-CV-02079-JW (N.D.
 25 Cal.), the related action styled *Hunter, et al. v. Okun, et al.*, Case No. 07-CV-02795-JW, the action
 26 styled *Quirk Infiniti Inc. v. Wachovia Bank, NA.*, United States District Court for the District of
 Massachusetts, Case No. 1:08-12060, or any other action filed on behalf Of the Class Representatives or
 the Class.

27 ⁴ The "Bankruptcy Court" means the Court presiding over the related bankruptcy proceedings
 pending in the Southern District of New York, including the action styled *In Re The 1031 Tax Group,
 LLC, et al.*, Case No. 07-11448 (MG), and certain related adversary proceedings.

1 commencing, prosecuting, or asserting any claim for indemnity or contribution against the Non-
 2 Settling Defendants arising out of the claims or allegations asserted by the Class Representatives,
 3 whether arising under state, federal or foreign law as claims, cross-claims, counterclaims, or third-
 4 party claims, whether in the Class Action, in this Court, in the Bankruptcy Court, in any federal or
 5 state court, or in any other court, arbitration proceeding, administrative agency, or other forum in
 6 the United States, Canada or elsewhere to the extent the Court has power or authority, except that,
 7 to the extent that any entity hereafter asserts any claim against Citibank, Citibank may respond
 8 with any defenses, offsets, recoupments, cross-claims, third-party claims or counterclaims against
 9 that entity.

10 IT IS HEREBY ORDERED ADJUDGED AND DECREED that, to the fullest extent
 11 permitted by law, the Settling Defendants are hereby permanently barred, enjoined, and restrained
 12 from commencing, prosecuting, or asserting any claim for indemnity or contribution against
 13 Citibank or the Released Parties (or any other claim against the Citibank or the Released Parties
 14 where the injury to the Settling Defendant is the Settling Defendant's liability to the Plaintiffs or
 15 costs or fees in connection with asserted liability to the Plaintiffs) arising out of the claims, events,
 16 or allegations asserted in the Class Action, or any other allegations asserted by the Plaintiffs,
 17 whether arising under state, federal or foreign law as claims, cross-claims, counterclaims, or third-
 18 party claims, whether in the Class Action, in this Court, in the Bankruptcy Court, in any federal or
 19 state court, or in any other court, arbitration proceeding, administrative agency, or other forum in
 20 the United States, Canada or elsewhere to the extent the Court has power or authority (collectively
 21 the "Barred Claims of Settling Defendants"); provided that nothing herein shall preclude the
 22 Settling Defendants which are insurance companies from seeking reimbursements of any amounts
 23 paid in settlement of such claims or allegations by the Plaintiffs from their respective reinsurers,
 24 solely in their capacity as such.

25 IT IS HEREBY ORDERED ADJUDGED AND DECREED that the recovery of the
 26 Plaintiffs, if any, on their respective asserted and assertable claims against any Non-Settling
 27 Defendants shall be reduced by the amount of Citibank's equitable and proportionate share of joint
 28 and several liability, as will be determined later by the Class Action Court in the allocation

1 of recoverable damages or costs incurred by the Plaintiffs.

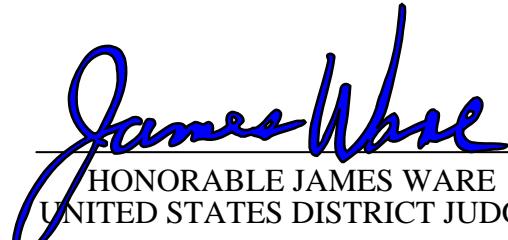
2 Without affecting the finality of this Final Judgment, this Court shall retain continuing
3 jurisdiction over matters relating to the Settlement, including the administration and enforcement
4 of the Settlements and this Final Judgment and including any application for an award of fees
5 and expenses payable from the Settlement proceeds by Class Counsel for securing the
6 Settlements on behalf of members of the Settlement Class and in connection with administering
7 and distributing the Settlement proceeds to the members of the Settlement Class.

8 This Court finds that, pursuant to Federal Rule of Civil Procedure 54(b), there is no just
9 reason for delay in entering this Final Judgment and Final Judgment should be and is hereby
10 entered.

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12 **IT IS SO ORDERED.**

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14 DATED: June 29 , 2011



15 HONORABLE JAMES WARE
16 UNITED STATES DISTRICT JUDGE

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